

## **REMARKS**

Claims 1-59 are pending in the present application. Claims 4-8, 10, 11, 15-31, 33, 42-44, 46, 51, 55, 56 and 58 have been withdrawn from consideration. Reconsideration of the application is respectfully requested.

In the Final Office Action, the Examiner maintained the rejection of claims 1-3, 9, 12-14, 32, 34-41, 45, 47-48, 52-54, 57 and 59 under 35 U.S.C. § 102 as allegedly being anticipated by Garretson (U.S. Patent No. 3,835,860). The Examiner further maintained the rejection of claims 49 and 50 under 35 U.S.C. § 103 as allegedly being unpatentable over Garretson. Applicants respectfully traverse the Examiner's rejections.

Respectfully, the device disclosed in Garretson is fundamentally different from the claimed invention. Among other things, all pending claims require that the fracture pin have a **sharpened tip** (that is adapted to penetrate subchondral bone). The device in Garretson does not have such a sharpened tip.

Garretson is very far afield from the present invention. Garretson is directed to a surgical **bone punch** for use in forming small holes in the cranium that will match corresponding holes in a covering member so that an anchoring mechanism, *e.g.*, surgical wires, may be used to secure the covering member over an opening in the cranium. See, *e.g.*, Col. 1, ll. 26-31; Col. 2, ll. 47-52. The Garretson device employs a “punch rod [40] for punching holes through bone tissue.” Col. 2, ll. 44-47. In operation, the cutting end 39 of the punch rod 40 fully penetrates the bone and the cutting end 39 enters the bore 56 in the anvil 52. See Figure 2; Col. 4, ll. 47-50. “A small plug of bone cut out by the punch is forced through the bore 56.” Col. 4, ll. 50-52 (emphasis added). Garretson goes on to note that, in an alternative embodiment, “the cutting tip

of the punch may be hollow and the anvil may be flat so that the bone plug is forced into the hollow punch.” Col. 4, ll. 54-56 (emphasis added).

As thus understood, the device in Garretson does not disclose a sharpened tip, as recited in the claims. The device in Garretson employs a rod with a cutting edge 39 that is adapted to cut cranial bone and produce a bone plug. It is certainly not a sharpened tip as set forth in the claims and as disclosed in the specification.

Moreover, it is difficult to understand how the Garretson device could be modified to employ a sharpened tip on the end of the punch 40 and still work for its intended purpose. It is beyond legitimate dispute that the purpose of the punch rod in the Garretson device is to form through holes in the cranium of a person so that an anchoring mechanism may be positioned through such holes to secure a cover member. Col. 1, ll. 26-31; Col. 2, ll. 47-52. If the punch rod 40 were provided with a sharpened tip, to the extent it could penetrate the cranium bone, it would pass into the bore 56 without removing any bone. Perhaps such a sharpened tip might cause fracturing of the cranium. In the alternative embodiment discussed in Garretson, the one employing a flat anvil, if the punch rod 40 was provided with a sharpened tip, it would immediately dull itself upon impact with the flat anvil. In view of the foregoing, there would not appear to be any logical reason why one skilled in the art would be motivated to form a sharpened tip on the end of the punch rod 40. It is doubtful that such an embodiment would even work for its intended purpose.

In view of the foregoing, it is respectfully submitted that all claims pending in the present application are in condition for immediate allowance. The Examiner is invited to contact the

undersigned attorney at (713) 934-4055 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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Date: May 18, 2006

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